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December 28, 2012

VIA FEDERAL EXPRESS AND E.C.F. FILING

Honorable Sean H. Lane, U.S.B.J.
United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, NY 10004

Re: In re MSR Resort Golf Course LLC, et al., Case No. 11-10372 (SHL) (Jointly Administered)

Dear Judge Lane:

I am writing on behalf of KSL Capital Partners, LLC ("KSL Capital") in response to the December 21, 2012 letter to the Court, and the proposed order attached thereto, submitted by counsel for Five Mile Capital Partners ("Five Mile").¹

On December 17, 2012, Five Mile purported to serve a non-party subpoena for documents and deposition testimony on KSL, a true and correct copy of which is attached as Exhibit 1 hereto (the "December Subpoena"). The December Subpoena sought by December 27, 2012 the production of twenty categories of documents dating back in time to January 1, 2006. By letter to Five Mile's counsel dated December 19, 2012, KSL Capital objected to the December Subpoena, as being facially and wholly improper.

The December Subpoena is the latest of Five Mile's repeated and redundant discovery requests against KSL Capital, following Five Mile's previous non-party subpoena directed to

¹ Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to such terms in Five Mile's December 21, 2012 letter to the Court and proposed order attached thereto.

KSL Capital dated August 27, 2012 (the "August Subpoena") and supplemental discovery requests to KSL Capital dated September 14, 2012, (the "September Discovery Request").

Five Mile's latest discovery requests, as set forth in the December Subpoena, are vexatious and harassing in light of discovery that Five Mile already had obtained from KSL Capital. KSL Capital responded to the requests contained in the August Subpoena and the September Discovery Requests, subject to and without waiving KSL Capital's objections dated August 29, August 31, and September 21, 2012, by (1) diligently searching and reviewing documents and communications to produce responsive documents to Five Mile on September 4, 2012 continuing through September 7, 2012, and again on October 5, 2012, (2) producing a privilege log on October 5, 2012, and (3) making a witness available for deposition on September 7, 2012 and then again on October 11, 2012.

The December Subpoena is facially and wholly improper because it seeks information relating to issues that have already been the subject of extensive and repeated discovery requests by Five Mile before being fully litigated before the Court. The Bidding Procedures Order contemplated that discovery related to the good faith of GIC as a purchaser would be limited to actions taken prior to September 10, 2012. In addition, the December Subpoena improperly seeks discovery relating to the letter agreement between KSL and GIC dated November 5, 2012, which clarified and amended that certain letter agreement between NA RE and KSL, dated May 14, 2010, and which was entered into in response to and as expressly contemplated by the Court's bench ruling on October 25, 2012. Before Five Mile served the December Subpoena, the Court had already admonished Five Mile not to re-litigate or revisit discovery related to these issues. Five Mile nonetheless violated the Court's admonition.

In addition, the December Subpoena propounded requests for documents and testimony that could and should be obtained, if at all, from the Debtors, GIC or Midland. Neither KSL Capital nor its affiliates is party to GIC's stalking horse commitment letter, or a proponent of the Debtors' Second Amended Joint Plan in the above-captioned matter. Even if Five Mile's latest discovery requests were proper (which they are not for the reasons articulated by the Court at the December 20, 2012 telephonic conference regarding Five Mile's December 2012 discovery requests to GIC), the discovery sought from KSL Capital is redundant of discovery sought from the Debtors, Midland Loan Services, Inc., and GIC, and is more appropriately addressed to such parties.

Furthermore, Five Mile's proposed order (attached to its December 21, 2012 letter to the Court) recites facts regarding KSL Capital that are not true. Contrary to the recitals in Five Mile's proposed order, Five Mile's counsel did not: contact KSL Capital about its objections to the December Subpoena prior to its request for a conference with the Court, or provide notice to KSL Capital that the telephonic conference with the Court on December 20 had been requested or scheduled. By email dated December 21, 2012, the undersigned brought these misstatements in the proposed order to the attention of counsel for Five Mile.

In light of the frivolous and vexatious discovery requests made by Five Mile against KSL Capital and the needless expense caused by Five Mile's submission of a factually inaccurate proposed order, KSL Capital submits that if the Court is inclined to grant GIC's request for

sanctions against Five Mile and its counsel for reimbursement of costs incurred by GIC and the Debtors' estates, the Court should grant similar relief to KSL Capital as well (for costs from and after December 19, 2012, incurred as a result of Five Mile's discovery requests against KSL Capital).

Respectfully,

The signature is handwritten in black ink. It consists of the first name 'Lisa' followed by the last name 'Schweitzer'. The 'L' in 'Lisa' is a simple vertical stroke. The 'S' in 'Schweitzer' is a large, cursive loop. The rest of the name is written in a fluid, cursive style.

Lisa Schweitzer